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EXAMINER	
WHIPKEY, JASON T	

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2622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/826,501	AOYAMA ET AL.	
	Examiner	Art Unit	
	Jason T. Whipkey	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 04 November 2008.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☒ Claim(s) 2 is/are allowed.
6)☒ Claim(s) 1 and 3-16 is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on 19 April 2004 is/are: a)☒ accepted or b)☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a)☒ All b)☐ Some * c)☐ None of:
1.☒ Certified copies of the priority documents have been received.
2.☐ Certified copies of the priority documents have been received in Application No. _____.
3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new grounds of rejection.

2. Applicant's arguments, see page 13, filed November 4, 2008, with respect to the rejection under 35 U.S.C. 112, first paragraph, have been fully considered and are persuasive. The rejection of claims 13 and 14 has been withdrawn.

Applicant argues that the *storage part* described in the specification is the claimed *recording medium*. The examiner agrees. Additionally, the examiner notes that the storage part described in the specification must inherently also be *computer-readable*, as claimed, and will be interpreted as such.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3, 4, 6-8, 10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robins (U.S. Patent No. 6,549,729) in view of Murata (U.S. Patent No. 5,249,058).

Regarding **claim 1**, Robins discloses an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an optical system (lens 101) for capturing an image comprising:

> a focusing mechanism (see column 2, line 1) for moving said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25);
>
> a switch (shutter release button 117) that functions as a focusing switch (via switch S1 115; see column 2, lines 45-51) and also functions as a shutter switch (via switch S2 116; see column 2, lines 61-65), wherein said switch when operated orders a focusing action (see column 2, lines 45-51) or orders capturing of the image (see column 2, lines 61-65); and

> a controller (logic unit 110) that decides whether the optical system is in a final lens position or not during a focusing action of said focusing mechanism due to said switch (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65), and in the case where a shutter operation of said switch is performed under a state that the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65), shifts said optical system to a fixed focus position from an auto-focusing position and takes a fixed focus image (see column 5, lines 11-25).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing device for a camera, wherein:

> during the focusing action (see Figure 5), a focusing value is measured with an origin at a lens position where a focus position becomes an infinity (see column 4, line 65, through column 5, line 8), and if the measured focusing value is not smaller than a maximum focusing value, a decision [about whether the optical system is in a final lens position] is performed with making the measured focusing value into the maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the

current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a system that coordinates photography timing and focus, as described by Robins, with a system that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 3**, Robins discloses:

said switch is provided as a first switch (115; see Figure 1), and a switch which is used in photographing by a fixed focus is also provided as a second switch (116; see column 2, lines 61-65) separated from the first switch.

Regarding **claim 4**, Robins discloses:

said switch functions as said focusing switch at a state of a half-push and functions as said shutter switch at a state of a full-push (see column 2, lines 31-65).

Regarding **claim 6**, Robins discloses an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an optical system (lens 101) for capturing an image comprising:

a focusing mechanism (see column 2, line 1) for moving said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25);

a switch (shutter release button 117) that functions as a focusing switch (via switch S1 115; see column 2, lines 45-51) and also functions as a shutter switch (via switch S2 116; see column 2, lines 61-65), wherein said switch according to a condition of operation orders a focusing action (see column 2, lines 45-51) or the capturing of the image (see column 2, lines 61-65); and

a controller (logic unit 110) that decides whether the optical system is in a final lens position or not during a focusing action of said focusing mechanism due to said switch (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65), and in the case where a shutter operation of said switch is performed under a state that the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65) takes an image at a focus position in the middle of the focusing action (during the process of focusing, the lens is moved to correspond to the hyperfocal distance; see column 5, lines 11-25).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing device for a camera, wherein:

during the focusing action (see Figure 5), a focusing value is measured with an origin at a lens position where a focus position becomes an infinity (see column 4, line 65, through column 5, line 8), and if the measured focusing value

is not smaller than a maximum focusing value, a decision [about whether the optical system is in a final lens position] is performed with making the measured focusing value into the maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a system that coordinates photography timing and focus, as described by Robins, with a system that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 7**, Robins discloses:

said switch is provided as a first switch (115; see Figure 1), and a switch which is used in photographing by a fixed focus is also provided as a second switch (116; see column 2, lines 61-65) separated from the first switch.

Regarding **claim 8**, Robins discloses:

said switch functions as said focusing switch at a state of a half-push and functions as said shutter switch at a state of a full-push (see column 2, lines 31-65).

Regarding **claim 10**, Robins discloses a photographing control method of an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an imaging part which catches an image obtained through an optical system (lens 101; see *id.*), and a focusing

mechanism (see column 2, line 1) which moves said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25), comprising:

a process that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65);

a process that decides whether the optical system is in a final lens position or not during a focusing action of the focusing mechanism (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65);

a process that detects said shutter operation and, if the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65), switches to said fixed focus position from said auto-focusing position of said optical system under the focusing action (see column 5, lines 11-25); and

a process that takes a fixed focus image caught at said fixed focus (see *id.*).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing method (see Figure 5) for a camera, including:

a process that measures a focusing value with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8);

a process that makes the measured focusing value into a maximum focusing value if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 12**, Robins discloses a photographing control method of an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an imaging part which catches an image obtained through an optical system (lens 101; see *id.*), and a focusing mechanism (see column 2, line 1) which moves said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25), comprising:

a process that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65);

a process that decides whether the optical system is in a final lens position or not during a focusing action of the focusing mechanism (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65);

a process that detects said shutter operation and, if the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65), takes an auto-focusing image caught by said imaging part in the middle of the focusing action (during the process of focusing, the lens is moved to correspond to the hyperfocal distance; see column 5, lines 11-25).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing method (see Figure 5) for a camera, including:

a process that measures a focusing value with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8);

a process that makes the measured focusing value into a maximum focusing value if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current

value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 13**, Robins discloses a computer readable recording medium (inherently present, as a control program is run on the camera's microprocessor; see column 4, lines 53-65) storing a photographing control program (see *id.*) of an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an imaging part which catches an image obtained through an optical system (lens 101; see *id.*), and a focusing mechanism (see column 2, line 1) which moves said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25), the control program comprising:

a step that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65);

a step that decides whether the optical system is in a final lens position or not during a focusing action of the focusing mechanism (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65);

a step that detects said shutter operation and, if the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65), switches to said fixed focus position from said auto-focusing position of said optical system under the focusing action (see column 5, lines 11-25); and

a step that takes a fixed focus image caught at said fixed focus (see *id.*).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing method (see Figure 5) for a camera, including:

a step that measures a focusing value with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8);

a step that makes the measured focusing value into a maximum focusing value if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the

art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 14**, Robins discloses a computer readable recording medium (inherently present, as a control program is run on the camera's microprocessor; see column 4, lines 53-65) storing a photographing control program (see *id.*) of an electronic device (such as a digital camera; see Figure 1 and column 1, lines 63-67) having an imaging part which catches an image obtained through an optical system (lens 101; see *id.*), and a focusing mechanism (see column 2, line 1) which moves said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25), the control program comprising:

> a step that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65);
>
> a step that decides whether the optical system is in a final lens position or not during a focusing action of the focusing mechanism (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65);
>
> a step that detects said shutter operation and, if the optical system is not in the final lens position (if the focusing has not finished; see column 4, lines 61-65), takes an auto-focusing image caught by said imaging part in the middle of the focusing action (during the process of focusing, the lens is moved to correspond to the hyperfocal distance; see column 5, lines 11-25).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing method (see Figure 5) for a camera, including:

> a step that measures a focusing value with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8);
>
> a step that makes the measured focusing value into a maximum focusing value if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 15**, Robins discloses an integrated circuit (a microprocessor; see column 4, lines 54-56) to which an imaging part catching an image obtained through an optical system (lens 101; see *id.*) and a focusing mechanism (see column 2, line 1) moving said optical system

to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25) are connected externally (microprocessors are inherently self-contained), comprising:

> a detection part that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65); and
>
> a control part (logic unit 110) that decides whether the optical system is in a final lens position or not (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines 56-65) and, on the basis of a detection of said detection part, switches to said fixed focus position from said auto-focusing position of said optical system under the focusing action and takes a fixed focus image caught at said fixed focus if the optical system is not in the final lens position (see column 4, lines 61-65, and column 5, lines 11-25).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing system (see Figure 5) for a camera, including:

> a focusing value measured with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8); and

wherein said control part makes the measured focusing value into a maximum focusing value to perform the decision if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

Regarding **claim 16**, Robins discloses an integrated circuit (a microprocessor; see column 4, lines 54-56) to which an imaging part catching an image obtained through an optical system (lens 101; see *id.*) and a focusing mechanism (see column 2, line 1) moving said optical system to an auto-focusing position (see column 2, lines 45-51) or a fixed focus position (a hyperfocal distance; see column 5, lines 22-25) are connected externally (microprocessors are inherently self-contained), comprising:

a detection part that detects a shutter operation in the middle of a focusing action of said focusing mechanism (see column 2, lines 61-65); and

a control part (logic unit 110) that decides whether the optical system is in a final lens position or not (the system determines whether all of the camera's pre-photograph activities, including focus, have been completed; see column 4, lines

> 56-65) and takes an auto-focusing image in the middle of the focusing action (during the process of focusing, the lens is moved to correspond to the hyperfocal distance; see column 5, lines 11-25) based on a detection of said shutter operation of said detection part if the optical system is not in the final lens position (see column 4, lines 61-65).

Robins is silent with regard to measuring a focusing value during the focusing action using a lens origin at infinity and making the measured focusing value into the maximum focusing value when the measured focusing value is not smaller than the maximum focusing value.

Murata discloses a focusing system (see Figure 5) for a camera, including:

> a focusing value measured with an origin at a lens position where a focus position becomes an infinity, during the focusing action (see column 4, line 65, through column 5, line 8); and
>
> wherein said control part makes the measured focusing value into a maximum focusing value to perform the decision if the measured focusing value is not smaller than a maximum focusing value (comparator 101 compares the maximum focus evaluating value with the current focus evaluating value; if the current value is greater, the current value becomes the maximum value and the ideal focusing position; see column 5, lines 12-23).

Combining a method that coordinates photography timing and focus, as described by Robins, with a method that determines an optimum focus location by finding a maximum focusing value, as described by Murata, would have been obvious to one of ordinary skill in the

art at the time the invention was made, as there are a finite, predictable number of focusing methods available in the art.

6. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robins in view of Murata and Terasaki (U.S. Patent No. 7,119,843)

Claims 5 and 9 can be treated like claims 1 and 6, respectively. However, Robins is silent with regard to the device having two housing parts that fold up.

Terasaki discloses an imaging device, including:

a first housing part (arm 6 in Figure 5) that has said imaging part (imaging optical system 4);

a second housing part (phone body 1) that has said switch (shutter button 12; see column 5, lines 8-13); and

a coupling part (hinge 5) that couples said first housing part and said second housing part so that the first and second housing parts can be folded up (see column 4, lines 19-29).

Combining the imaging device disclosed by Robins with the imaging device shape disclosed by Terasaki would have yielded the predictable result of producing a device can be carried compactly. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Robins's system include two housing parts that fold up, as described by Terasaki.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robins in view of Murata and Iida (U.S. Patent No. 5,001,507).

Claim 11 can be treated like claim 10. However, Robins is silent with regard to superimposing a focusing mark on an image display.

Iida discloses an imaging device, including:

> a process that superimposes a focusing mark (42 and 43 in Figure 10) representative of a distance between a pictured object and the optical system on an image, in the middle of said focusing action, which is caught by said imaging part, and displays it (on a viewfinder; see column 13, lines 47-61).

Combining the imaging method disclosed by Robins with the image display function disclosed by Iida would have yielded the predictable result of providing an operator with more information when composing an image, thus resulting in an improved output. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Robins's system include a focusing mark on an image display.

Allowable Subject Matter

8. Claim 2 is allowed.

Regarding **claim 2**, no prior art could be located that teaches or renders obvious an electronic device with an optical system, wherein a controller compares between a time required for bringing into focus a focusing mechanism and a time from starting of a focusing action until

starting of a shutter operation, and changes the optical system to an autofocusing position or a fixed focus position based on a result of the comparison.

Conclusion

9. Applicant's amendment necessitated the new ground of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:30 A.M. to 6 P.M. eastern standard time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.T.W./
January 22, 2009

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622